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10/597,058

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Armanda Cinderella Nieuwkerk

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/597,058 | Applicant(s) NIEUWKERK ET AL. | |
| | Examiner LEE FINEMAN | Art Unit 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 20', 20".

Art Unit: 2872

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the absorbing polarizing layer comprising sub-layers absorbing light of the first kind of polarization and absorbing light of the second kind of polarization (claims 7 and 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. The drawings are objected to because in fig. 1 the reference sign 3' referring to the person should --3--.

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: 1.) The specification is missing section headings. 2.) The brief description of figure 3 on page 3, line 7 should be -- Figures 3a and 3b-- and the brief description of figure 4 on page 3, line 9 should be --Figure[[s]] 4 is--.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

7. Claims 1-11 are objected to because of the following informalities:

Regarding claim 1, the limitations include reference signs not listed in the drawings (20', 20").

Regarding claim 8, the limitations "the absorbing polarizer" and "the non-display area" lacks antecedent basis.

Regarding claim 11, the limitation "the absorbing polarizer" lacks antecedent basis.

Regarding claim 13, the limitation "the absorbing polarizing layer" is repeated. One should be deleted.

The dependent claims inherit the deficiencies of the claims from which they depend. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Regarding claims 12-14, Claim 12 depends upon itself, therefore it is unclear what the actual metes and bounds of the claim are. For the purposes of examination, claim 12 will be

Art Unit: 2872

taken to be dependent on claim 2. The dependent claims inherit the deficiencies of the claims from which they depend.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Adachi et al., WO 02/069031 A1 (henceforth Adachi). **NOTE:** US 2004/0100598 A1 (Adachi et al.) is the English equivalent of the prior art and will be referred to in the rejection.

Regarding claims 1-4, Adachi discloses in fig. 5 a polarizing mirror (301) for viewing purposes having a first plane (fig. 1) reflecting light of a first kind of polarization (\updownarrow) to a viewing side (left side of drawing) and has a structured polarizing layer (in at least so far as the polarizer is a layer in the system and has structure), the mirror passing light of a second kind of polarization (Θ) and being provided with a display device (1000) at its non-viewing side (right side of drawing), which display device during use provides light of the second kind of polarization (page 8, section [0098]), the polarizing mirror having at the non viewing side at least partly at least one absorbing layer (208 or absorbing polarizer on non viewing side of display not shown, see page 4, section [0068]), which is an absorbing polarizing layer absorbing light of the second kind of polarization (Θ).

Art Unit: 2872

Regarding claims 9 and 10, Adachi further discloses having at least one retardation layer (400) between the display device (1000) and the polarizing mirror which rotates the polarization over substantially 90 degrees (page 5, section [0070]), which is a $1/2 \lambda$ foil.

Regarding claim 11, Adachi further discloses in which the polarizing mirror has a housing (see for example figs. 37 and 38), the housing at least at the back of the display device at its inner side (not shown) being provided with the absorbing polarizer (absorbing polarizer on non viewing side of display not shown, see page 4, section [0068]).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5-6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi in view of Horsten et al., WO 03/079318 (henceforth Horsten).

Adachi discloses the claimed invention except for wherein the retarder layer rotates the polarization over substantially 45 degrees. Horsten discloses in figs. 3-4 and 7b a polarizing mirror (2) for viewing purposes having a first plane (2) reflecting light of a first kind of polarization (20'' or 35'') to a viewing side (figs. 4-5 and 7), the mirror passing light of a second kind of polarization (20' or 35') and being provided with a display device (11) at its non-viewing side, (fig. 3) which display device (11) during use provides light of the second kind of polarization (figs. 4 or 7b), at least one retardation layer (12 or 25) being provided between the

Art Unit: 2872

display device and the polarizing mirror (figs. 3-4 and 7b) wherein the retardation layer can be either a $1/2 \lambda$ foil (12) which rotates the polarization over substantially 90 degrees (page 5, section [0070]) or two $1/4 \lambda$ foil (25) which rotates the polarization over substantially 45 degrees (fig. 7b and page 7, line 15). It would have been obvious to one of ordinary skill in the art to use any of the equivalent retarder layers as taught by Horsten in the system of Adachi to effectively rotate the polarization.

13. Claims 7-8 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi in view of Horsten as applied to claims 5 and 12 above and further in view of Vetere, US 2,991,697.

Adachi in view of Horsten as applied to claims 5 and 12 above further disclose the absorbing polarizing layer being provided at least at the non-display area (in at least so far as the absorbing polarizer on non viewing side of display not shown is at a non-display area because no image is displayed there). Adachi in view of Horsten as applied to claims 5 and 12 above disclose the claimed invention except for the absorbing polarizing layer comprising sub-layers absorbing light of the first kind of polarization and absorbing light of the second kind of polarization. Kawata teaches that it is very well known to rotate different layers absorbing light of the first kind of polarization and absorbing light of the second kind of polarization to more effectively filter out light (column 3, line 46-column 4, line 2). It would have been obvious to one of ordinary skill in the art to add sub-layers absorbing light of the first kind of polarization and absorbing light of the second kind of polarization which can be rotated as taught by Vetere in the system of Adachi in view of Horsten to more effectively filter stray light.

Double Patenting

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 1, 2, 4 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/597065. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are merely broader than or an obvious variation of the claims of copending Application No. 10/597065.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 2872

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buckley et al., US 6,106,121 and Pastore, US 4,630,904 disclose displays built into a mirror.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE FINEMAN whose telephone number is (571)272-2313. The examiner can normally be reached on Monday - Friday 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lee Fineman/
Examiner, Art Unit 2872
11 September 2008